



## CITY OF PHILADELPHIA

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July 25, 2018

**VIA FAX and ECF**

The Honorable Petrese B. Tucker  
United States District Court for the  
Eastern District of Pennsylvania  
James A. Byrne U.S. Courthouse  
601 Market Street  
Philadelphia, PA 10106

**RE: *Fulton et al. v. City of Philadelphia et al., 18-CV-2075***

Dear Judge Tucker:

Defendants respectfully write to request clarification from the Court as to the deadline and procedure for Defendants to respond to the Complaint.

In the Court's July 13, 2018 order denying Plaintiffs' motion for a Temporary Restraining Order or Preliminary Injunction, the Court ordered Defendants to respond to the Complaint within 21 days (on or before August 3, 2018). However, after Plaintiffs filed a Notice of Appeal of that denial, the Court stayed Proposed Intervenor's then-pending Motion to Intervene because the Court found the appeal removed the Court's jurisdiction. Proposed Intervenor has since filed a Motion for Reconsideration of the stay order, which is pending. In light of the Court's orders, Defendants request that the Court clarify whether Defendants' deadline to respond to the Complaint remains August 3, 2018 or if that deadline is stayed pending appeal.

If the August 3, 2018 deadline is not stayed, Defendants request the Court's guidance as to whether or not the Court's procedural requirement that the parties must attend a settlement conference with Magistrate Judge Caracappa before filing a dispositive motion applies to Defendants' anticipated Motion to Dismiss in this case. Given the ongoing appeal of the Court's preliminary injunction decision, Defendants do not believe such a conference would be productive at this time and request permission to file a motion to dismiss without such a conference. If the Court's procedural rule does apply in this case, however, Defendants request that the Court refer the parties to Magistrate Judge Caracappa for a settlement conference and

extend Defendants' time to respond to the Complaint until 14 days after the conclusion of the conference.

Respectfully,

/s/ Diana Cortes

Diana Cortes

Chair, Litigation Group

Cc: All counsel of record (via ECF)

**CERTIFICATE OF SERVICE**

I hereby certify that this letter has been served electronically via ECF and is available for viewing and downloading from the ECF system.

/s/ Benjamin H. Field

Benjamin H. Field

Assistant City Solicitor

Affirmative and General Litigation